## MINUTES BOARD OF ADJUSTMENT August 2, 2007

## THOSE IN ATTENDANCE:

Gary Soule, Chairman
Rick Bliss
Anne Martin

Steve Askins, Building Official
Kevin O'Keefe, City Attorney

Victor Cohen Mel Disney

Chairman Soule called the meeting to order at 5:00 p.m. He welcomed everyone to the meeting, introduced himself and asked that the other members of the Board introduce themselves.

## **MINUTES**

The minutes of the meeting of June 7, 2007 were presented for approval. The minutes were approved, after having been previously distributed to each member.

Chairman Soule indicated that the members of this Board are appointed by the Mayor and approved by the City's Board of Aldermen and serve without monetary compensation. He indicated that a full compliment of the Board consists of 5 members and that four members must vote in favor of a variance in order for the requested variance to be granted. He stated that the applicant must demonstrate practical hardship with regard to the property in order to justify the granting of a variance. He then advised that this is a duly advertised, duly noted meeting and that the proceedings are of record. He reminded everyone that all testimony is tape-recorded and the minutes produced from this recording. He then asked that all individuals wishing to speak to please speak clearly. He stated that generally, the City will present its exhibits first, after which the applicant will make their presentation, then questions/comments from the Board members will ensue after which audience comments will be solicited and finally, a vote will take place. Chairman Soule indicated that there is only one matter to consider this evening and verified that the applicant was in attendance.

## APPEAL FROM KLMR PROPERTIES FOR THE PROPERTY AT 7527 OXFORD DRIVE

At the request of the Chairman, everyone wishing to speak regarding the variance request (including the applicant) was sworn-in by the recording secretary.

Chairman Soule asked Steve Askins to provide a brief description of the variance request.

Steve Askins explained that the subject property is located within the Moorlands Addition Subdivision and that the zoning for this property is R-6 (Medium Density Multiple Dwelling

District) with an approximate lot size of 7,527 square feet. He stated the existing 3-story structure contains 6 units and was constructed in about 1927. He indicated that the applicant desires to convert this apartment building to condominiums and is planning on significant renovations to the property including reconfiguring the existing garage. Steve stated the existing building is already non-conforming, as it encroaches over the rear and side setbacks. He stated the required rear yard setback is 30-foot - the building sits 21'-1 3/8" from the rear property line. He indicated that the Zoning Ordinance allows for up to a 4-foot encroachment into the setback for outside stairways/fire escapes and that the existing stairs are 14-feet from the rear property line. The applicant is asking for an 8.92-foot variance from the rear yard setback requirement for outside stairways/fire escapes. Steve explained that in addition, the applicant is asking for a 4.62-foot variance from the 8 foot side yard setback, including the 4 foot allowance.

Chairman Soule asked if the side yard which is the subject of the variance request is the west side yard.

Steve Askins indicated that the subject side yard is the east side yard.

Chairman Soule asked City Attorney O'Keefe if the City had any exhibits to present with regard to this variance.

City Attorney O'Keefe replied "yes". He asked that the following exhibits be entered into the record on behalf of the City:

- A. City's Code of Ordinances, with special notice of the procedures governing the Board of Adjustment;
- B. Section 19.9.2 of the City's Zoning Ordinance pertaining to rear yard setbacks in the subject district;
- C. Section 19.9.3 of the City's Zoning Ordinance pertaining to side yard setbacks in the subject district;
- D. Files and records including application for building permit, correspondence between the applicant and the City; the Board of Adjustment application, corresponding plans and documents and finally, the Staff Report.

Chairman Soule indicated that all Exhibits will be received.

Michael Doster, Attorney representing KLMR Properties, LLC, (applicant), introduced himself and Larry Lipsitz, Managing Partner of KLMR, stating that the City's comments are an accurate statement of facts. He stated that he has a PowerPoint presentation and that a paper copy of the presentation has been provided to each member as well as to City staff. He stated the building is beautiful, but there are some elements that need to be upgraded. He indicated that they are attempting to maintain the character and architecture of the building. A slide depicting a photograph of the front of the building and the proposed front elevation was shown. Mr. Doster explained that the building renovation will include a new roof, fireplaces and a central elevator. He stated that since this building is older, there are many non-conformities. He stated that an additional obstacle is the narrow driveway and turn around area and that they are trying to get the

cars off the street and into the garage. A slide depicting the rear of the building and the proposed rear elevation was presented. Mr. Doster explained that currently, there is no center garage. He stated the applicant is proposing to add a center garage to the building and to widen the existing garage doors to 19 feet. He indicated that with this parking plan, cars can be tandem parked. The final slide depicted a two dimensional building/site layout. He stated that this proposal actually reduces the rear yard encroachment as it exists today. He stated with regard to practical difficulty, the existing building and stairway is already non-conforming and that in order to upgrade the building to City standards, a variance is needed. He stated they believe this is the only way to accomplish this as there are no other alternatives. He stated he believes staff agrees with this assessment.

Chairman Soule suggested that Mr. Doster's presentation be marked and kept on record as Applicant's Exhibit Group 1.

Mr. Doster thanked the Chairman for the suggestion and requested that the slide presentation (hard copy) be retained in the file and marked as suggested. He advised the members that Mr. Lipsitz was available to answer questions or provide additional information regarding the proposal and/or the project.

Chairman Soule commented that Mr. Doster's presentation was very informative and very helpful.

Mr. Doster referred to Mike Ferguson who worked on the technical aspect of the presentation.

Anne Martin asked Steve Askins how may parking spaces per unit the Code requires.

Steve Askins stated that the current Code requires 2 spaces per unit; if this building were constructed today, 12 off-street spaces would be required.

Rick Bliss asked if 10 garage spaces will be provided once the project is complete.

Mr. Doster replied "yes".

Mr. Lipsitz commented that currently, only 2 cars can be parked in the garage area. He stated the tenants currently park on the street.

Mel Disney stated he believes there is a discrepancy between the survey and the architectural documents regarding the easement with Lot 5.

Mr. Lipsitz stated that easement has already been acquired.

A discussion regarding easements and the retaining walls ensued. Mr. Lipsitz stated that the retaining wall on the east is within their property. He stated that they plan to put a wall across the entire back of the property.

Mel Disney asked for clarification, and the possibility that a condition be placed on the approval, that the ingress/egress to Buckingham be eliminated.

Mr. Lipsitz stated he would be agreeable once the easement is approved for the lot to the west.

Chairman Soule asked if such discussion and/or condition would be more appropriate at a different level of approval.

Kevin O'Keefe advised the members that any condition of approval placed on a variance must directly relate to the subject of the variance and that while the condition Mr. Disney is asking for may be related to vehicular movement, the variance itself is not directly related to vehicular movement or parking.

Mr. Doster stated he agrees with Kevin's opinion and that that they will try to get the easement along the west side. He stated that although they are here for the fire escape and that the reconfiguration of the garages is a condition not directly related to the variance request, they will not ignore Mr. Disney's comment.

Mr. Lipsitz stated it is better to use the driveway access.

Victor Cohen asked what is located in the rear elevation above the 3<sup>rd</sup> floor fireplace.

Mr. Lipsitz indicated it is a roof deck.

Victor Cohen asked if it is a mansard roof on front.

Mr. Lipsitz replied "yes".

Victor Cohen asked if the height of the building is no taller than the peak.

Mr. Lipsitz concurred.

Victor Cohen asked Mr. Lipsitz if he has done any other condominium conversions.

Mr. Lipsitz indicated that he rehabbed the building at 7552 Parkdale.

Victor Cohen asked the estimated cost of renovation of this building.

Mr. Lipsitz replied "\$600,000.00".

Victor Cohen asked if there will be an elevator.

Mr. Lipsitz replied "yes".

Victor Cohen asked the square footages of the units.

Mr. Lipsitz replied "1,500 square feet".

Victor Cohen asked the sale price of the units.

Mr. Lipsitz stated between \$450,000 and \$500,000.00.

Anne Martin asked if creating easements would preclude neighbors from doing the same thing.

Mr. Lipsitz stated the driveway on the west will be widened and that the 20 foot turn-around will be widened to 28 feet.

Rick Bliss asked how much room there is between the east edge and the property line and between the property line and the building to the east.

Mr. Doster stated that there is 3 ½ feet from the edge of the stairway to the property line, but he is not sure the distance between the property line and the building to the east.

Chairman Soule commented that there is more distance on the east side than on the west side.

Rick Bliss stated he was just wondering about public safety and firefighters getting around if the need arises.

Chairman Soule stated there is about two times the distance on the east versus the west.

Steve Askins commented that there is extra land on the east side available.

Rick Bliss stated that it was mentioned earlier that alternatives were ruled out. He asked for more discussion on that subject.

Mr. Doster stated their objectives were two-fold: one being to widen the garage entrances and two being to convert the middle space to another garage bay. He stated there is no way to accomplish these objectives without removing the existing stairway. He stated their options were very limited and is not aware of any other alternative.

Being no further questions or comments, Chairman Soule made a motion to grant an 8.92-foot variance from the rear yard setback of 26-feet to allow the construction of a fire escape/outside stairway. The motion was seconded by Victor Cohen and received unanimous approval of the Board.

Chairman Soule then made a motion to grant a 4.62-foot variance from the side yard setback of 8-feet to allow the construction of a fire escape/outside stairway. The motion was seconded by Rick Bliss and received unanimous approval of the Board.

Mr. Doster thanked the Board.

| Chairman Soule noted Mel and his wife Audrey Disney's receipt of the Crème da la Clayton Award. |
|---|
| Being no further business for the Board of Adjustment, this meeting adjourned at 5:55 p.m.      |
| Recording Secretary   |